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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **TR.P.(C.) 95/2024 & CM APPL. 31767/2024**

SUNITA MEHTA & ANR.

.....Petitioners

Through: Ms. Aditi Gupta, Advocate with
petitioner in person

versus

KISHORE KUMAR VERMA & ORS.

.....Respondents

Through: Mr. Bharat Sharma, Ms. Kirti Kapoor
and Mr. Shashwat Bhardwaj,
Advocates for R-1 & 3 with R-1 & 3
in person

Ms. Sangeeta Chandra, Advocate for
R-2

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

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24.01.2025

The present petition has been filed seeking transfer of probate petition PC no. 33/2023 titled as *Shri Kishor Kumar Verma and Ors. vs. State* pending before the court of learned DJ-01, East District, Karkardooma Courts, Delhi to this Court.

Learned counsel for the petitioners submits that a suit bearing CS(OS) no. 454/2023 titled as *Sunita Mehta & Anr. vs. Kishore Kumar Verma & Anr.* was filed for partition, declaration and permanent and mandatory injunction of immovable property prior in time to the probate petition. Learned counsel for the petitioners submits that the respondent nos. 1 to 3 did not disclose in their probate petition regarding filing of the suit for partition by the petitioner before this Court.

Learned counsel for the respondent nos. 1 and 3 has opposed the transfer of the suit. However, respondent no. 2 in his affidavit has stated that



he has no objection.

Learned counsel for the petitioners submits that this Court in IA no. 4339/2008 in CS (OS) 1339/2008 vide order dated 15.07.2009 dealt with the similar question of whether a probate petition which is filed subsequent to the partition suit is to be transferred to this Court or not. Learned counsel submits that this Court after taking into account the facts and circumstances, transferred the probate petition to this Court and directed the same to be tried along with the civil suit pending before the High Court. Reliance has also been placed upon *Nirmala Devi vs. Arun Kumar Gupta and Ors.*, (2005) 12 SCC 505 and *Balbir Singh Wasu vs. Lakhbir Singh and Ors.*, (2005) 12 SCC 503.

In the facts and circumstances, the probate petition bearing PC no. 33/2023 titled as *Shri Kishor Kumar Verma and Ors. vs. State* filed by the respondents is withdrawn from the court of learned DJ-01, East District, Karkardooma Courts, Delhi and is transferred to this Court.

The learned Principal District & Sessions Judge, East, Karkardooma Courts, Delhi is directed to send entire records of the case to the High Court.

Copy of this order be sent to the learned Principal District & Sessions Judge, Karkardooma Courts, Delhi for information and compliance.

Parties are directed to appear before the learned Registrar General of this court on 10.02.2025.

The present petition along with pending application, stands disposed of.

DINESH KUMAR SHARMA, J

JANUARY 24, 2025/N/SMG